

This letter discusses the Service Occupation Tax and the taxation of repairs involving leased vehicles. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

June 30, 2006

Dear Xxxxx:

This letter is in response to your letter in which you request information regarding the taxation of repairs involving leased vehicles. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are in the process of revising our tax tables and have a question concerning the taxability of insurance deductibles.

For example, a customer rents a truck, and purchases insurance that has a deductible of \$1,000. In the process of the vehicle rental, the customer has an accident. The repair bills come to \$3,000. The customer pays \$1,000, and the rest of the repair bill is covered by the insurance. Our question concerns the taxability of the \$1,000 deductible. Should we charge tax or not?

Your guidance on this issue is greatly appreciated. You may mail you [sic] response to me at the address on this letter, or you may e-mail me.

DEPARTMENT'S RESPONSE:

Your inquiry involves a lease situation. Leases in Illinois are taxed differently than in many other States. For more information on leases please see 86 Ill. Adm. Code 130.2010. Please also see the following letter ruling describing the taxation of leases in Illinois: ST-05-0087. The regulation and the General Information Letter, as well as other letter rulings on this subject can be found on the Department's website under the link "Laws/Regs/Rulings".

The repair of the truck in the situation described in this letter request would appear to have Service Occupation and Service Use Tax implications. The Service Occupation Tax is imposed upon all persons engaged in the business of making sales of service (referred to as "servicemen") at the rate of 6.25% of the "selling price" of the tangible personal property transferred as an incident of a sale of service (for example, parts transferred in a truck repair). See 86 Ill. Adm. Code 140.101. The Service Use Tax is a privilege tax imposed on the privilege of using, in this State, tangible personal property that is transferred as an incident to a purchase of service from a serviceman. See Ill. Adm. Code 160.101. These taxes work together to tax tangible personal property transferred incident to a sale of service.

We base our answer to the question concerning the lessee's tax liability in the situation described in this letter request on our understanding that the lessor would be the party contracting with a third party to have its truck repaired. In this instance the lessor may owe Service Use Tax to the truck repair shop and the truck repair shop may owe Service Occupation Tax, depending on the tax base of the truck repair shop. (For an explanation of the different methods servicemen may use to calculate their tax liability please see General Information Letter ST 02-0068-GIL on the Department's web site.) If, as assumed here, the lessor contracts with a third party to have the truck repaired, the lessee would incur no tax liability on the \$1,000 he or she pays to the lessor in satisfaction of the lessee's insurance deductible.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk